Supreme Court, U. S.
FILED
OCT 7 1976
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-214

CALNETICS CORPORATION and MEIER-LINE, INC.,
Petitioners,

vs.

VOLKSWAGEN OF AMERICA, INC., and VOLKSWAGEN PRODUCTS CORPORATION,
Respondents.

Brief of the State of California, Amicus Curiae In Support of Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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INTEREST OF THE STATE OF CALIFORNIA

The State of California files this amicus curiae brief in support of petitioner Calnetics Corporation pursuant to Rule 42 of the Rules of this Court.

The State of California has a substantial interest in the enforcement of the federal antitrust laws both to provide an economic climate for our citizens free of prohibited restraints and so that the State can conduct its proprietory business free of such restraints.

California and many other states have with increasing frequency filed private antitrust cases in the federal courts

seeking relief under sections 4 and 16 of the Clayton Act. 15 U.S.C. §§ 15, 26.[1]

ARGUMENT

Since its landmark Opinion in *Standard Oil Co. v. United States,* 221 U.S. 1 (1911), this Court has continually interpreted the Sherman Act as a charter for economic activity free of unreasonable restraints. This Court has called for the Act's vigilant and effective enforcement with equal vigor by private parties as well as the government.[2] To this end, the Court has called for a broad and adaptable interpretation of the Act comparable to that given the Constitution.[3]

The State of California submits that the narrow and rigid interpretation given section 16 of the Clayton Act by the Ninth Circuit in *Calnetics Corp. v. Volkswagen of America, Inc.,* 532 F.2d 674 (9th Cir. 1976) is wholly inconsistent with the purposes of Congress and the decisions of this Court.

The type of legislative history relied upon by the Ninth Circuit for its restrictive interpretation of § 16, namely, speeches of individual members of Congress, has been rejected by this Court as an inappropriate source of information from which to discover the meaning of the language of a statute. *United States v. Trans-Missouri Freight Asso-*

1. The states of California, Arizona, Connecticut, Kansas, and Florida are presently seeking relief under sections 4 and 16 of the Clayton Act against the petroleum industry. MDL Docket No. 150 *In Re Petroleum Products Antitrust Litigation.*

2. See *Northern Pacific Railway* v. *U.S.,* 256 U.S. 1; *Perma Life Mufflers, Inc. v. International Parts Corp.,* 392 U.S. 134, 139 (1968); *Zenith Radio Corp.* v. *Hazeltine Research, Inc.,* 395 U.S. 100, 130-31 (1969).

3. See *Appalachian Coals, Inc.,* v. *U.S.,* 288 U.S. 244, 359-60 (1932).

ciation, 166 U.S. 290, 318 (1897); see *S & E Contractors, Inc. v. United States,* 406 U.S. 1, 13, fn. 9 (1972).

We believe that a broad interpretation of § 16 is in the public interest and we therefore support the arguments of petitioner on the question whether divestiture is available as a remedy for a violation of the antitrust laws in a private suit for equitable relief under section 16 of the Clayton Act, 15 U.S.C. § 26.

CONCLUSION

The State of California submits that a writ of certiorari should issue to review the question whether divestiture is available as a remedy for violation of the antitrust laws in a private suit for equitable relief under section 16 of the Clayton Act, 15 U.S.C. § 26.

Respectfully submitted,

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This brief is joined in by the States of Kansas, Connecticut, Florida, Arizona and Oregon.

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